

## § 102-3.5

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### APPENDIX A TO SUBPART E OF PART 102-3—KEY POINTS AND PRINCIPLES

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 7, 5 U.S.C., App.; and E.O. 12024, 3 CFR, 1977 Comp., p. 158.

SOURCE: At 66 FR 37733, July 19, 2001, unless otherwise noted.

## 41 CFR Ch. 102 (7-1-02 Edition)

### Subpart A—What Policies Apply to Advisory Committees Established Within the Executive Branch?

#### § 102-3.5 What does this subpart cover and how does it apply?

This subpart provides the policy framework that must be used by agency heads in applying the Federal Advisory Committee Act (FACA), as amended (or “the Act”), 5 U.S.C., App., to advisory committees they establish and operate. In addition to listing key definitions underlying the interpretation of the Act, this subpart establishes the scope and applicability of the Act, and outlines specific exclusions from its coverage.

#### § 102-3.10 What is the purpose of the Federal Advisory Committee Act?

FACA governs the establishment, operation, and termination of advisory committees within the executive branch of the Federal Government. The Act defines what constitutes a Federal advisory committee and provides general procedures for the executive branch to follow for the operation of these advisory committees. In addition, the Act is designed to assure that the Congress and the public are kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees.

#### § 102-3.15 Who are the intended users of this part?

(a) The primary users of this Federal Advisory Committee Management part are:

(1) Executive branch officials and others outside Government currently involved with an established advisory committee;

(2) Executive branch officials who seek to establish or utilize an advisory committee;

(3) Executive branch officials and others outside Government who have decided to pursue, or who are already engaged in, a form of public involvement or consultation and want to avoid inadvertently violating the Act; and

(4) Field personnel of Federal agencies who are increasingly involved with

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the public as part of their efforts to increase collaboration and improve customer service.

(b) Other types of end-users of this part include individuals and organizations outside of the executive branch who seek to understand and interpret the Act, or are seeking additional guidance.

### § 102-3.20 How does this part meet the needs of its audience?

This Federal Advisory Committee Management part meets the general and specific needs of its audience by addressing the following issues and related topics:

(a) *Scope and applicability.* This part provides guidance on the threshold issue of what constitutes an advisory committee and clarifies the limits of coverage by the Act for the benefit of the intended users of this part.

(b) *Policies and guidelines.* This part defines the policies, establishes minimum requirements, and provides guidance to Federal officers and agencies for the establishment, operation, administration, and duration of advisory committees subject to the Act. This includes reporting requirements that keep Congress and the public informed of the number, purpose, membership, activities, benefits, and costs of these advisory committees. These requirements form the basis for implementing the Act at both the agency and Governmentwide levels.

(c) *Examples and principles.* This part provides summary-level key points and principles at the end of each subpart that provide more clarification on the role of Federal advisory committees in the larger context of public involvement in Federal decisions and activities. This includes a discussion of the applicability of the Act to different decisionmaking scenarios.

### § 102-3.25 What definitions apply to this part?

The following definitions apply to this Federal Advisory Committee Management part:

*Act* means the Federal Advisory Committee Act, as amended, 5 U.S.C., App.

*Administrator* means the Administrator of General Services.

*Advisory committee* subject to the Act, except as specifically exempted by the Act or by other statutes, or as not covered by this part, means any committee, board, commission, council, conference, panel, task force, or other similar group, which is established by statute, or established or utilized by the President or by an agency official, for the purpose of obtaining advice or recommendations for the President or on issues or policies within the scope of an agency official's responsibilities.

*Agency* has the same meaning as in 5 U.S.C. 551(1).

*Committee Management Officer* ("CMO"), means the individual designated by the agency head to implement the provisions of section 8(b) of the Act and any delegated responsibilities of the agency head under the Act.

*Committee Management Secretariat* ("Secretariat"), means the organization established pursuant to section 7(a) of the Act, which is responsible for all matters relating to advisory committees, and carries out the responsibilities of the Administrator under the Act and Executive Order 12024 (3 CFR, 1977 Comp., p. 158).

*Committee meeting* means any gathering of advisory committee members (whether in person or through electronic means) held with the approval of an agency for the purpose of deliberating on the substantive matters upon which the advisory committee provides advice or recommendations.

*Committee member* means an individual who serves by appointment or invitation on an advisory committee or subcommittee.

*Committee staff* means any Federal employee, private individual, or other party (whether under contract or not) who is not a committee member, and who serves in a support capacity to an advisory committee or subcommittee.

*Designated Federal Officer* ("DFO"), means an individual designated by the agency head, for each advisory committee for which the agency head is responsible, to implement the provisions of sections 10(e) and (f) of the Act and any advisory committee procedures of the agency under the control and supervision of the CMO.

*Discretionary advisory committee* means any advisory committee that is